



House of Representatives

General Assembly

File No. 272

January Session, 2011

House Bill No. 6276

House of Representatives, March 29, 2011

The Committee on Judiciary reported through REP. FOX of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING COMPETENCY TO STAND TRIAL.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (j) of section 54-56d of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (j) The person in charge of the treatment facility, or such person's
5 designee, shall submit a written progress report to the court (1) at least
6 seven days prior to the date of any hearing on the issue of the
7 defendant's competency; (2) whenever he or she believes that the
8 defendant has attained competency; (3) whenever he or she believes
9 that there is not a substantial probability that the defendant will attain
10 competency within the period covered by the placement order; [or] (4)
11 whenever, within the first one hundred twenty days of the period
12 covered by the placement order, he or she believes that the defendant
13 would be eligible for civil commitment pursuant to subdivision (2) of
14 subsection (h) of this section; or (5) whenever he or she believes that
15 the defendant is still not competent but has improved sufficiently such

16 that continued inpatient commitment is no longer the least restrictive
17 placement appropriate and available to restore competency. The
18 progress report shall contain: (A) The clinical findings of the person
19 submitting the report and the facts on which the findings are based; (B)
20 the opinion of the person submitting the report as to whether the
21 defendant has attained competency or as to whether the defendant is
22 making progress, under treatment, toward attaining competency
23 within the period covered by the placement order; (C) the opinion of
24 the person submitting the report as to whether the defendant appears
25 to be eligible for civil commitment to a hospital for psychiatric
26 disabilities pursuant to subsection (m) of this section and the
27 appropriateness of such civil commitment, if there is not a substantial
28 probability that the defendant will attain competency within the
29 period covered by the placement order; and (D) any other information
30 concerning the defendant requested by the court, including, but not
31 limited to, the method of treatment or the type, dosage and effect of
32 any medication the defendant is receiving. Not later than five business
33 days after the court finds either that the defendant will not attain
34 competency within the period of any placement order under this
35 section or that the defendant has regained competency, the person in
36 charge of the treatment facility, or such person's designee, shall
37 provide a copy of the written progress report to the examiners who
38 examined the defendant pursuant to subsection (d) of this section.

39 Sec. 2. Subdivision (1) of subsection (k) of section 54-56d of the
40 general statutes is repealed and the following is substituted in lieu
41 thereof (*Effective October 1, 2011*):

42 (k) (1) [When] Whenever any placement order for treatment is
43 rendered or continued, the court shall set a date for a hearing, to be
44 held within ninety days, for reconsideration of the issue of the
45 defendant's competency. Whenever the court (A) receives a report
46 pursuant to subsection (j) of this section which indicates that (i) the
47 defendant has attained competency, (ii) the defendant will not attain
48 competency within the remainder of the period covered by the
49 placement order, (iii) the defendant will not attain competency within

50 the remainder of the period covered by the placement order absent
51 administration of psychiatric medication for which the defendant is
52 unwilling or unable to provide consent, [or] (iv) the defendant would
53 be eligible for civil commitment pursuant to subdivision (2) of
54 subsection (h) of this section, or (v) the defendant is still not competent
55 but has improved sufficiently such that continued inpatient
56 commitment is no longer the least restrictive placement appropriate
57 and available to restore competency, or (B) receives a report pursuant
58 to subparagraph (A)(iii) of subdivision (2) of subsection (h) of this
59 section which indicates that (i) the application for civil commitment of
60 the defendant has been denied or has not been pursued by the
61 Commissioner of Mental Health and Addiction Services, or (ii) the
62 defendant is unwilling or unable to comply with a treatment plan
63 despite reasonable efforts of the treatment facility to encourage the
64 defendant's compliance, the court shall set the matter for a hearing not
65 later than ten days after the report is received. The hearing may be
66 waived by the defendant only if the report indicates that the defendant
67 is competent. The court shall determine whether the defendant is
68 competent or is making progress toward [attainment of] attaining
69 competency within the period covered by the placement order. If the
70 court finds that the defendant is competent, the defendant shall be
71 returned to the custody of the Commissioner of Correction or released,
72 if the defendant has met the conditions for release, and the court shall
73 continue with the criminal proceedings. If the court finds that the
74 defendant is still not competent but that the defendant is making
75 progress toward attaining competency, the court may continue or
76 modify the placement order. If the court finds that the defendant is still
77 not competent but that the defendant is making progress toward
78 attaining competency and inpatient placement is no longer the least
79 restrictive placement appropriate and available to restore competency,
80 the court shall consider whether the availability of such less restrictive
81 placement is a sufficient basis on which to release the defendant on a
82 promise to appear, conditions of release, cash bail or bond and may
83 order continued treatment to restore competency on an outpatient
84 basis. If the court finds that the defendant is still not competent and

85 will not attain competency within the remainder of the period covered
86 by the placement order absent administration of psychiatric
87 medication for which the defendant is unwilling or unable to provide
88 consent, the court shall proceed as provided in subdivisions (2), (3)
89 and (4) of this subsection. If the court finds that the defendant is
90 eligible for civil commitment, the court may order placement of the
91 defendant at a treatment facility pending civil commitment
92 proceedings pursuant to subdivision (2) of subsection (h) of this
93 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	54-56d(j)
Sec. 2	<i>October 1, 2011</i>	54-56d(k)(1)

Section 1	<i>October 1, 2011</i>	54-56d(j)
Sec. 2	<i>October 1, 2011</i>	54-56d(k)(1)

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill is not anticipated to result in a net impact to the state. The bill requires a treatment facility to submit a report whenever they believe a defendant is still not competent but has improved sufficiently to the point that inpatient commitment is no longer the least restrictive placement. This may result in the court modifying its placement order from inpatient to outpatient. Based on previous year placements, the number anticipated to move to outpatient services is under ten. Although outpatient treatment is less costly than inpatient, any savings is anticipated to be offset by refilling the inpatient beds.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**HB 6276*****AN ACT CONCERNING COMPETENCY TO STAND TRIAL.*****SUMMARY:**

This bill requires the person in charge of a mental health treatment facility where a defendant who is incompetent to stand trial is receiving inpatient treatment (usually Connecticut Valley Hospital) to submit a written progress report to the court whenever he or she believes the defendant, while still incompetent, has improved sufficiently that continued inpatient commitment is no longer the least restrictive placement appropriate and available to restore competency.

The court must schedule a hearing within 10 days of receiving the report. If it agrees with the facility head's findings, the law permits the court to continue or modify its placement order. The bill requires it to consider whether the availability of a less restrictive placement is a sufficient basis on which to release the defendant on (1) a promise to appear, (2) conditions of release, or (3) cash bail or bond. It may order the defendant to continue treatment on an outpatient basis.

EFFECTIVE DATE: October 1, 2011

BACKGROUND***Incompetency to Stand Trial***

A criminal defendant is incompetent to stand trial if he or she cannot understand the charges or aid in his or her defense. In most cases, the defendant is placed in the custody of the Department of Mental Health and Addiction Services for treatment meant to restore his or her competency. He or she may be held for the maximum length of the sentence for the crime of which he or she is charged or 18 months, whichever is less.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 34 Nay 0 (03/11/2011)